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Industry Call: Certified Loan Application Packaging Process



July 1, 2015



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Objectives of the Industry Call

- Provide an overview of the section 502 direct single family housing loan program's final rule and the associated handbook changes.
- Provide an overview on how interested parties can apply to be an intermediary.
- Give stakeholders an opportunity to ask questions.
 - Questions requiring reflection and research will be answered via a Q&A document.



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The Final Rule: Effective on October 1, 2015

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What does the final rule do?

- Imposes reasonable experience, training, structure, and performance requirements on the:
 - Individual that wants to be Agency-certified to package loan applications.
 - Qualified employer that employs the certified packager.
 - Intermediary that performs quality assurance reviews on packaged loan applications and provides other services to the qualified employer and their certified packager.

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What does the final rule do?

- Regulates the permitted packaging fee.
- Benefits low- and very low-income potential homebuyers in rural areas by:
 - Increasing their awareness of the program via the certified packaging body's outreach efforts.
 - Increasing the specialized support available to them pre, during, and potentially post the loan application process.
 - Improving the quality of loan application packages submitted on their behalf.

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Agency-Certified Loan Application Packager

- To obtain this designation, an individual must:
 - Have at least one year of affordable housing loan origination and/or affordable housing counseling experience;
 - Be employed by a qualified employer;
 - Complete an Agency-approved loan application packaging course and successfully pass the corresponding test; and
 - Submit applications to the Agency via an intermediary if determined necessary by a State Director.

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Qualified Employer

- Agency-certified packagers must be employed (either as an employee or as an independent contractor) by a qualified employer.
- To be considered a qualified employer, an employer must:
 - Be a nonprofit organization or public agency in good standing in the State(s) of its operation;
 - Be tax exempt under the Internal Revenue Code and be engaged in affordable housing;

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Qualified Employer

- To be considered a qualified employer, an employer must (continued):
 - Notify the Agency and the applicant if they or their Agency-certified packager has a financial interest in the subject property;
 - Prepare an affirmative fair housing marketing plan for Agency approval; and
 - Submit applications to the Agency via an intermediary if determined necessary by a State Director.



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Agency-Approved Intermediary

- To become an Agency-approved intermediary, an interested party must apply and demonstrate to the Agency's satisfaction that they meet each of the nine conditions outlined in the regulation. The States' Housing Finance Agencies are exempt from certain conditions.



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Revocation

- The designation as an Agency-certified loan application packager or Agency-approved intermediary is subject to revocation.



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The Associated Handbook Changes: Effective on October 1, 2015

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An Intermediary's Involvement

- An intermediary will be involved in the certified packaging process unless:
 - There is not an Agency-approved intermediary that services the impacted State.
 - A certified packaging body obtains approval from the applicable Rural Development (RD) State Director to opt not to go through an intermediary.

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An Intermediary's Involvement

- The applicable RD State Director may approve an opt-out request, when:
 - A certified packaging body has funneled their packaged loan applications through an intermediary for at least twelve months; and
 - The intermediary supports the request based on the quality and quantity of the loan application packages submitted by the certified packaging body.



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An Intermediary's Involvement

- A certified packaging body will be initiated into the certified packaging process either through the intermediary's recruitment efforts or by introducing themselves directly to the intermediary.
- The intermediary must ensure that the certified packaging body meets all the regulatory requirements of the certified packaging process prior to having the certified packaging body funnel packaged loan applications through them.

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An Intermediary's Involvement

- If a State is served by multiple intermediaries, a certified packaging body can choose which intermediary to funnel their packaged loan applications through.
- Exclusive of any Agency involvement, the intermediary will enter into an agreement with each certified packaging body that outlines roles and responsibilities and how the fee will be shared.
 - If requested, a copy of the agreement must be provided to the Agency.



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An Intermediary's Involvement

- The regulation prohibits the intermediary from having a financial interest in the subject property. An intermediary that is also a Community Development Financial Institution (CDFI) will not be considered noncompliant when CDFI funds are tied to the transaction.
- An intermediary can package loan applications. When they do, they are considered a certified packaging body with an opt-out sanctioned by the RD National Office.



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Packaging Fee for the Certified Packaging Process

- The fee may not exceed two percent of the national average area loan limit and may be limited further.
- Since publishing the final rule, the Agency is considering an alternative to using a flat fee of up to \$1,500 regardless of an intermediary's involvement.
- With the alternative, the packaging fee would be:
 - Up to \$1,500 when an intermediary is involved.
 - Up to \$1,250 when an intermediary is not involved.

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Exempted and Nominal Packaging Fee Outside the Certified Packaging Process

- A nominal packaging fee not resulting from the certified packaging process is an eligible cost (i.e. the Agency can finance the fee) under specific conditions.
 - The fee is no more than \$350;
 - The loan application packager is a nonprofit, tax exempt partner that received an exception from the certified packaging process; and
 - The packager gathers the information needed for the Agency to determine borrower eligibility.

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Agency-Financed Packaging Fees

- Be it a packaging fee through the certified packaging process or an exempted and nominal packaging fee outside the certified packaging process, the Agency can finance the packaging fee if:
 - The borrower has repayment ability and the total secured indebtedness does not exceed the area loan limit or the market value, whichever is lower.

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Packaging Fees Not Eligible for Agency Financing

- Individuals and entities that do not meet the certified packaging process's requirements or that do not have an exception to charge a nominal packaging fee may still package on behalf of an applicant. However:
 - Any fee charged is not an allowable loan purpose.
 - The Agency will require proof that the fee will not adversely impact the applicant's qualification.



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The Agency-Approved Packaging Course

- NeighborWorks, the Housing Assistance Council, and Rural Community Assistance Corporation are approved to serve as non-Agency trainers.
- The course will only be available through a three-day classroom session until an online version is approved by the Agency.
- Given the limited availability of the classroom sessions, parties will have one year from the date they are initially included in the certified packaging process to complete the training requirement.



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Acceptable Rates of Performance

- For an intermediary to retain their designation:
 - 85% of the packaged loan applications funneled through them must receive Agency approval (with minimal need for the Agency to request additional information). At a minimum, this performance standard will be measured by the Agency at the end of the fiscal year and will be viewed on a per State basis.



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Acceptable Rates of Performance

- For an intermediary to retain their designation:
 - 30% of the packaged loan applications funneled through them must be from very low-income applicants. This performance standard will be measured by the Agency at the end of the fiscal year and will be viewed on a per State basis.



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Acceptable Rates of Performance

- The same rates of performance apply to a certified packaging body with an Agency-sanctioned opt-out.



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TILA-RESPA Forms

- It is the Agency's position that the Good Faith Estimate, the Truth in Lending Statement, and the HUD-1 can only be completed and provided by Agency staff.
- This position will apply to the Loan Estimate and Closing Disclosure once effective.



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Exclusion of Self-Help

- Self-help projects and section 502 direct loans tied to self-help projects are excluded from the certified packaging process and from charging a packaging fee since grantees receive grant funds to package (among other things) and are provided technical and management assistance. However, a grantee and its staff may participate in the certified packaging process for non-self-help loans provided they meet all the rule's requirements.



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**Applications to be an Intermediary:
Due by July 9, 2015**



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To Apply

- Interested parties must furnish sufficient documentation to demonstrate to the Agency's satisfaction that they meet each of the required conditions outlined in the supplementary information section of the notice.
- There is not, per say, an application form or standard application structure.



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Questions Regarding Application

Is evidence of “good standing” required for just the State where the interested party is incorporated or for each State they propose to serve? What if the interested party has no history of providing services in a proposed State?

Answer: Evidence must be provided for the State of incorporation while evidence in “other” proposed States is strongly encouraged. Clearly indicate if you have no history of providing services in a proposed State.



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Please Note

Intermediaries operating under the loan application packaging pilot program, which expires on September 30, 2015, are not guaranteed an intermediary role beyond their participation in the pilot program and must apply under this application process should they wish to serve as an intermediary under the regulation.

Their applications under this application process are not limited to the State(s) they served under the pilot.



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Questions?